2254 ✓ 1983
FILING FEE PAID
Yes ✓ No
IFP MOTION FILED
Yes ✓ No
COPIES SENT TO
Court ✓ ProSe

FILED
NOV - 7 2007
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

NAME James Robert Barnacs

PRISON NUMBER #V95306

CURRENT ADDRESS OR PLACE OF CONFINEMENT CSP corcoran P.O. Box 3476

CITY, STATE, ZIP CODE Corcoran, CA 93212

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

James Robert Barnacs, PETITIONER
(FULL NAME OF PETITIONER)

v.

D. Adams, RESPONDENT
(NAME OF WARDEN, SUPERINTENDENT, JAILOR, OR AUTHORIZED PERSON HAVING CUSTODY OF PETITIONER [E.G., DIRECTOR OF THE CALIFORNIA DEPARTMENT OF CORRECTIONS])

and

The Attorney General of the State of California, Additional Respondent.

Civil No '07 CV 2139 JAH WMc
(TO BE FILLED IN BY CLERK OF U.S. DISTRICT COURT)

PETITION FOR WRIT OF HABEAS CORPUS

UNDER 28 U.S.C. § 2254
BY A PERSON IN STATE CUSTODY

1. Name and location of the court that entered the judgment of conviction under attack: San Diego Superior court

2. Date of judgment of conviction: April 6, 2005

3. Trial court case number of the judgment of conviction being challenged: SCE234361

4. Length of sentence: LWOP plus 3 years

5. Sentence start date and projected release date: April 6, 2005 - no Release date

6. Offense(s) for which you were convicted or pleaded guilty (all counts):
Count one: First degree murder 187 subd. (a) 1
Count Two: carjacking 215 subd. a
Count three: Arson 451 subd. d

7. What was your plea? (CHECK ONE)

(a) Not guilty ☒
(b) Guilty ☐
(c) Nolo contendere ☐

8. If you pleaded not guilty, what kind of trial did you have? (CHECK ONE)

(a) Jury ☒
(b) Judge only ☐

9. Did you testify at the trial?

☐ Yes ☒ No

DIRECT APPEAL

10. Did you appeal from the judgment of conviction in the **California Court of Appeal**?
☒ Yes ☐ No

11. If you appealed in the **California Court of Appeal**, answer the following:
(a) Result: Conviction affirmed on all Counts

(b) Date of result (if known): 11/30/06

(c) Case number and citation (if known): D046201 ~~S149361~~
(d) Names of Judges participating in case (if known):
Benke, Haller, J, Aaron J

(e) Grounds raised on direct appeal: Denied 14th amendment when trial court refused to instruct the jury with defenses requested instructions. Denied 14th amendment when trial court denied defenses request to excuse juror #5 and to replace with an alternate. Denied 14th amendment when prosecutor questioned witness about fear of retaliation.

12. If you sought further direct review of the decision on appeal by the **California Supreme Court** (e.g., a Petition for Review), please answer the following:
(a) Result: Denied to review without comment

(b) Date of result (if known): March 14, 2007

(c) Case number and citation (if known): [redacted] S149361

(d) Grounds raised: Same as the court of appeal. all grounds raised in opening brief, were also raised in petition for Review.

13. If you filed a petition for certiorari in the **United States Supreme Court**, please answer the following with respect to that petition:
    (a) Result:
    (b) Date of result (if known):
    (c) Case number and citation (if known):
    (d) Grounds raised:

COLLATERAL REVIEW IN STATE COURT

14. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions (e.g., a Petition for Writ of Habeas Corpus) with respect to this judgment in the **California Superior Court**?
☐ Yes ☒ No

15. If your answer to #14 was "Yes," give the following information:
    (a) **California Superior Court** Case Number (if known):
    (b) Nature of proceeding:
    (c) Grounds raised:
    (d) Did you receive an evidentiary hearing on your petition, application or motion?
    ☐ Yes ☐ No
    (e) Result:
    (f) Date of result (if known):

16. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions (e.g., a Petition for Writ of Habeas Corpus) with respect to this judgment in the **California Court of Appeal**?
☐ Yes ☒ No

17. If your answer to #16 was "Yes," give the following information:

(a) **California Court of Appeal** Case Number (if known):

(b) Nature of proceeding:

(c) Names of Judges participating in case (if known)

(d) Grounds raised:

(e) Did you receive an evidentiary hearing on your petition, application or motion?
☐ Yes ☐ No

(f) Result:

(g) Date of result (if known):

18. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions (e.g., a Petition for Writ of Habeas Corpus) with respect to this judgment in the **California Supreme Court**?
☐ Yes ☒ No

19. If your answer to #18 was "Yes," give the following information:

(a) **California Supreme Court** Case Number (if known):

(b) Nature of proceeding:

(c) Grounds raised:

(d) Did you receive an evidentiary hearing on your petition, application or motion?
☐ Yes ☐ No

(e) Result:

(f) Date of result (if known):

20. If you did ***not*** file a petition, application or motion (e.g., a Petition for Review or a Petition for Writ of Habeas Corpus) with the **California Supreme Court**, containing the grounds raised in this federal Petition, explain briefly why you did not:

COLLATERAL REVIEW IN FEDERAL COURT

21. Is this your **first** federal petition for writ of habeas corpus challenging this conviction?

☒ Yes ☐ No (IF "YES" SKIP TO #22)

(a) If no, in what federal court was the prior action filed?

(i) What was the prior case number?

(ii) Was the prior action (CHECK ONE):

Denied on the merits? ☐

Dismissed for procedural reasons? ☐

(iii) Date of decision:

(b) Were any of the issues in this current petition also raised in the prior federal petition?

☐ Yes ☐ No

(c) If the prior case was denied on the merits, has the Ninth Circuit Court of Appeals given you permission to file this second or successive petition?

☐ Yes ☐ No

CAUTION:

- **Exhaustion of State Court Remedies:** In order to proceed in federal court you must ordinarily first exhaust your state court remedies as to each ground on which you request action by the federal court. This means that even if you have exhausted some grounds by raising them before the California Supreme Court, you must first present ***all*** other grounds to the California Supreme Court before raising them in your federal Petition.
- **Single Petition:** If you fail to set forth all grounds in this Petition challenging a specific judgment, you may be barred from presenting additional grounds challenging the same judgment at a later date.
- **Factual Specificity:** You must state facts, not conclusions, in support of your grounds. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do. A rule of thumb to follow is — state who did exactly what to violate your federal constitutional rights at what time or place.

GROUNDS FOR RELIEF

22. **State *concisely* every ground on which you claim that you are being held in violation of the constitution, law or treaties of the United States. Summarize *briefly* the facts supporting each ground.** (e.g. what happened during the state proceedings that you contend resulted in a violation of the constitution, law or treaties of the United States.) If necessary, you may attach pages stating additional grounds and/or facts supporting each ground.

(a) GROUND ONE: petitioner was denied 14th amendment due process when the trial court refused To instruct the Jury with defenses requested instructions related to petitioners defense on independent intervening acts. Denied 14, 5, 6 amendments.

Supporting FACTS: DR. Kennedy testified that cruz was brought into the hospital on OCT. 3, 2003. A Cat Scan was done to evaluate brain activity. IT was determined Cruz had a linear Skull fracture. and there was an epidural bleed causing compression in the brain. a neurosurgical Specialist performed Surgery to remove the blood clot and alleviate pressure in the brain. The Surgery was succesful and there was no recurring blood in the brain. After one week cruz prognosis was poor. Cruz responded to treatment too increase his blood pressure but not too the levels desired. on the mourning of oct 9, 03 DR. Kennedy meet with cruz family to explain cruz prognosis. DR. Kennedy told the family if it were his loved one, He would continue with aggressive treatment. Also that cruz Could have a meaningful neurological recovery. cruz family ordered Kennedy not too proceed with agressive treatment, but to provide comfort care. Kennedy Stopped treatment by removing the breathing tube and all medications that were controlling blood pressure. cruz was then given 10 miligrams of morphine every hour. Cruz still had brain activity at the time treatment was stopped. DR. Bonnell testified that morphine had been given

Did you raise GROUND ONE in the California Supreme Court?

☒ Yes ☐ No.

If yes, answer the following:

(1) Nature of proceeding (i.e., petition for review, habeas petition): petition for review

(2) Case number or citation: [redacted] S149361

(3) Result (attach a copy of the court's opinion or order if available):

Denied to Review without comment.

Ground one: Continued From Page 6

Supporting facts:

To insure cruz had a quiet passing. DR. Bonnell questioned Kennedys testimony that the morphine at the end was given to reduce pain, given the fact that no morphine had been administered for 36 hours and there was nothing in the medical records to show any signs of agitation, or pain. Bonnell also testified that when supportive treatment is removed, only when there is no hope of meaningful recovery, and there is reason to believe the individual is brain dead. Bonnell stated unless that is the situation. "you're not removing life support, you're causing death rather than not prolonging life. DR. Bonnell believed ~~sealed cruz fate at that point in time~~ the morphine sealed cruz fate at that point in time. cruz was never diagnosed as being in a vegative state. Brain death never occured. cruz had no will or end of life wishes. DR. Stanely testified that during her autopsy of cruz, she examined parts of cruz brain that were beggining to heal. Defense Counsel objected to Caljic 3.40 and 3.41 and offered a modified version of 3.40 and 3.41. Counsel also requested an instruction regarding euthanasia probate Sections 4650, 4653, Counsel argued vigorously that the facts of the case justified modification of the instructions to allow for a finding that an unforseeable intervening act created a reasonable doubt

GRound one: Continued from page 6

Supporting FACTS:

as to the murder charge. Defense counsel asked the Court for some ~~[illegible]~~ instruction on independent intervening acts because that is the law. Counsel Thus vigorously argued that the Jury be instructed properly on the law of causation.

Court of Appeal, Fourth Appellate District, Div. 1 - No. D046201
S149361

IN THE SUPREME COURT OF CALIFORNIA

En Banc

THE PEOPLE, Plaintiff and Respondent,

v.

JAMES BARKACS, Defendant and Appellant.

The petition for review is DENIED.

SUPREME COURT
FILED

MAR 1 4 2007

Frederick K. Ohlrich Clerk

Deputy

GEORGE

Chief Justice

(b) GROUND TWO: Petitioner was denied his 5th amendment right to a Choosen Jury. 14th amendment right to due process. and 6th amendment right to a fair trial when juror #5 failed to reveal her extensive contact with Law enforcement. Trial court denied petitioners request to excuse Jurror #5 and replace her with an alternate. jurror.

Supporting FACTS:

Jurror #5 was a long time neighbor of the prosecuting attorney
She had extensive contacts with other prosecutors from the
Same office a former police Chief, and Some judges. one deputy
district attorney considered her a close acquaintence. Jurror
#5 failed to reveal extent of Law enforcement Contacts during
Voir dire. Her mere willingness to withhold information
plausibly affected her ability to be impartial which demonstrated
her inclination toward dishonesty. Early on in the Jury Selection
process jurror 5 informed the court that She knew the prosecutor and
his wife. She deemed there relationship as fellow rotarians. She stated
She didn't have an opinion of the prosecutor one way or another. and
didn't think her contact would influence her. On the third day
of trial another deputy district attorney brought it to the prosecutors
attention that he and jurror #5 are close acquaintences.
The Jurror was examined on the issues. She stated the deputy and
her weren't close. Just fellow rotarians. She stated in that
Context She knows all of her other judicial contacts. Jurror 5
made a point of telling the court about mr. Ross the prosecutor
and his wife and She didn't consider them close friends or relatives.
She failed to mention all other contacts during voir dire.

Did you raise GROUND TWO in the California Supreme Court?

☒ Yes ☐ No.

If yes, answer the following:

(1) Nature of proceeding (i.e., petition for review, habeas petition): petition for Review

(2) Case number or citation: [redacted] S149361

(3) Result (attach a copy of the court's opinion or order if available):
Denied to review without comment

(c) **GROUND THREE**: The Trial Court erred in allowing the prosecutor TO question witness Calvin Pete about his fear of retaliation BY petitioners family. This error prejudicially Violated petitioners 14th amendment right to due process.

Supporting FACTS:

In this Case there was no evidence presented that petitioner or petitioners family threatened witness Calvin Pete, or that he was in any manner in danger of retaliation as implied by the prosecutor. The prosecutors question alone and the overruled objection by the trial court was an insidious implication that petitioner and his family are dangerous People who could harm witness Calvin Pete if he testified truthfully. There was no foundation for the question. There was no curative, or limiting instruction given.

Did you raise GROUND THREE in the California Supreme Court?

☒ Yes ☐ No.

If yes, answer the following:

(1) Nature of proceeding (i.e., petition for review, habeas petition): petition for review

(2) Case number or citation: [redacted] S149361

(3) Result (attach a copy of the court's opinion or order if available):
Denied to Review without comment.

(d) GROUND FOUR:

Supporting FACTS:

Did you raise GROUND FOUR in the California Supreme Court?

☐ Yes ☐ No.

If yes, answer the following:

(1) Nature of proceeding (i.e., petition for review, habeas petition):

(2) Case number or citation:

(3) Result (attach a copy of the court's opinion or order if available):

23. Do you have any petition or appeal **now pending** in any court, either state or federal, pertaining to the judgment under attack?
☐ Yes ☒ No

24. If your answer to #23 is "Yes," give the following information:

(a) Name of Court:

(b) Case Number:

(c) Date action filed:

(d) Nature of proceeding:

(e) Name(s) of judges (if known):

(f) Grounds raised:

(g) Did you receive an evidentiary hearing on your petition, application or motion?
☐ Yes ☐ No

25. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing .... Gilbert Newton 133 W. Lexington Ave. El Cajon, CA 92020

(b) At arraignment and plea .... Gilbert Newton

(c) At trial .... David Rawson 410 S. Melrose Dr. Suite 218 Vista, CA 92081

(d) At sentencing .... David Rawson

(e) On appeal .... Nancy J. King 1400 Sixth Ave. Suite 210 C San Diego, CA 92101

(f) In any post-conviction proceeding . [illegible]

(g) On appeal from any adverse ruling in a post-conviction proceeding:

26. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?
☒ Yes ☐ No

27. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?
☐ Yes ☒ No

(a) If so, give name and location of court that imposed sentence to be served in the future:

(b) Give date and length of the future sentence:

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?
☐ Yes ☐ No

28. Consent to Magistrate Judge Jurisdiction

In order to insure the just, speedy and inexpensive determination of Section 2254 habeas cases filed in this district, the parties may waive their right to procced before a district judge and consent to magistrate judge jurisdiction. Upon consent of all the parties under 28 U.S.C. § 636(c) to such jurisdiction, the magistrate judge will conduct all proceedings including the entry of final judgment. The parties are free to withhold consent without adverse substantive consequences.

The Court encourages parties to consent to a magistrate judge as it will likely result in an earlier resolution of this matter. If you request that a district judge be designated to decide dispositive matters, a magistrate judge will nevertheless hear and decide all non-dispositive matters and will hear and issue a recommendation to the district judge as to all dispositive matters.

You may consent to have a magistrate judge conduct any and all further proceedings in this case, including the entry of final judgment, by indicating your consent below.

Choose only one of the following:

☐ Plaintiff consents to magistrate judge jurisdiction as set forth above.

OR

☒ Plaintiff requests that a district judge be designated to decide dispositive matters and trial in this case.

29. Date you are mailing (or handing to a correctional officer) this Petition to this court:

10 / 30 /2007

Wherefore, Petitioner prays that the Court grant Petitioner relief to which he may be entitled in this proceeding.

SIGNATURE OF ATTORNEY (IF ANY)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

10/30 07
(DATE)

SIGNATURE OF PETITIONER

JS44

(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

2254 ✓ 1983
FILING FEE PAID
Yes ✓ No
IFP MOTION FILED
Yes ✓ No
COPIES SENT TO
Court ✓ ProSe

FILED
NOV - 7 2007
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

I (a) PLAINTIFFS

James Robert Barkacs

DEFENDANTS

D. Adams, Warden

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Kern
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

James Robert Barkacs
PO Box 3476
Corcoran, CA 93212
V-75306

ATTORNEYS (IF KNOWN)

'07CV 2139 JAH WMC

II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX (For Diversity Cases Only) FOR PLAINTIFF AND ONE BOX FOR DEFENDANT

	PT	DEF		PT	DEF
Citizen of This State	☐1	☐1	Incorporated or Principal Place of Business in This State	☐4	☐4
Citizen of Another State	☐2	☐2	Incorporated and Principal Place of Business in Another State	☐5	☐5
Citizen or Subject of a Foreign Country	☐3	☐3	Foreign Nation	☐6	☐6

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

28 U.S.C. 2254

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT
- ☐ 110 Insurance
- ☐ Marine
- ☐ Miller Act
- ☐ Negotiable Instrument
- ☐ 150 Recovery of Overpayment &Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153Recovery of Overpayment of Veterans Benefits
- ☐ 160 Stockholders Suits
- ☐ Other Contract
- ☐ 195 Contract Product Liability

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury- Medical Malpractice
- ☐ 365 Personal Injury - Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

FORFEITURE/PENALTY
- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC881
- ☐ 630 Liquor Laws
- ☐ 640 RR & Truck
- ☐ 650 Airline Regs
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

LABOR
- ☐ 710Fair Labor Standards Act
- 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt. Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc.
- ☐ Security Act

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (13958)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS - Third Party 26 USC 7609

OTHER STATUTES
- ☐ 400 State Reappointment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce/ICC Rates/etc.
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 810 Selective Service
- ☐ 850 Securities/Commodities Exchange
- ☐ 875 Customer Challenge 12 USC
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900 Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State
- ☐ 890 Other Statutory Actions

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Eiectmant
- ☐ 240 Tort to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

CIVIL RIGHTS
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/Accommodations
- ☐ 444 Welfare
- ☐ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence Habeas Corpus
- ☒ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

☒ 1 Original Proceeding ☐ 2 Removal from State Court ☐ 3 Remanded from Appelate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23 DEMAND $ Check YES only if demanded in complaint: JURY DEMAND: ☐ YES ☐ NO

VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE Docket Number

DATE 11/7/2007 ~~SIGNATURE OF ATTORNEY OF RECORD~~

PAID $5 - 11/8/07 BK RCPT# 144312

[signature]

UNITED STATES
DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

# 144312 - BH

November 08, 2007
11:29:00

Habeas Corpus
USAO #.: 07CV2139 HABEAS FILING
Judge..: JOHN A HOUSTON
Amount.: $5.00 CK
Check#.: CACK#195-191267

Total-> $5.00

FROM: BARKACS V. ADAMS
HABEAS CORPUS